

May 12, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: *IP-Enabled Services Rulemaking*; WC Docket No. 04-36
*Primus Telecommunications, Inc. Ex Parte Comments***

Dear Ms. Dortch:

Primus Telecommunications, Inc. ("Primus" or "Company") is submitting these *Ex Parte* Comments to provide additional information to the Federal Communications Commission ("FCC" or "Commission") in this proceeding specifically in connection with Voice Over Internet Protocol ("VoIP") 911 issues.

Background – Primus & its VoIP Product.

- Primus is an FCC and state licensed interexchange and wireless reseller, and also provides a VoIP product called "Lingo." Lingo is a VoIP offering that requires the customer to use a broadband connection, which is not provided by Primus.
- Lingo is a price leader in the VoIP industry, offering unlimited long distance calls domestically and to certain international locations for \$19.99 per month. Lingo customers are generally tech savvy individuals and often have an international presence (family ties, business contacts, etc.).
- While some of Primus's customers use the Lingo product as a fixed device (*i.e.*, located in the same geographical location as the associated direct inward dialing ("DID") numbers) ("Fixed VoIP"), many Lingo customers use the product in a nomadic fashion (*i.e.*, using non-native – either domestic or international – DIDs from the geographical location of where the consumer registered the product upon purchase) ("Nomadic VoIP").

- Primus recognizes the importance of emergency services and of meeting customer demand and need for emergency services.
 - At the time of Lingo's inception, Primus reviewed the available alternatives for providing 911 and emergency services, and contracted with a third party to complete database dips so that all 911 calls can be forwarded to Public Safety Answering Point ("PSAP") "administrative" lines using 10-digit numbers.
 - Primus offers a clear, conspicuous, and specific disclosure to consumers that must be acknowledged as part of the enrollment process that traditional 911 services are not available through Lingo.

Issues Specific to Fixed VoIP Services.

- While Primus is committed to public safety, a 120 day mandate for basic 911 or E911 service with Fixed VoIP service remains problematic for regional VoIP carriers like Primus that already have contracted with third parties for an emergency services solution or who do not have a nationwide infrastructure. For those VoIP carriers, options are limited, results are not guaranteed, and the pricing implications are unknown:
 - The extent of the access to the selective routers and ability to arrive at mutually agreeable terms with the relevant LECs is unclear at this time;
 - The ability to contract with a LEC to perform the required 911 function is unclear at this time; and
 - Companies that do not have a nationwide infrastructure will be subject to the pricing power of only a limited number of companies that can act as third-party facilitators for the 911 services.

Issues Specific to Nomadic VoIP Services.

- Significantly, at this time there is no way for Primus, its third-party contractor, or other telecommunications carriers to provide "wireline-type" 911 service for calls from the Nomadic VoIP user because the inherent nature of Nomadic VoIP means that the location of the device may be changed at any time.
- Even if the onus shifts to the consumer to provide geographic information, and even if consumers update Primus with the required geographical information, and even if the LECs were to allow access to their selective routers and P-ANI components of emergency services, Primus does not have nationwide infrastructure to support traditional 911 services for Nomadic VoIP devices.

- Not all Nomadic VoIP users require 911 capabilities – either they are using the Nomadic VoIP device at an international location or they have other means of contacting 911 in the event of an emergency via a land line or cell phone.

Thoughtful Consideration of VoIP 911 Rules is Warranted.

- **No 911 solution implemented by the VoIP providers will guarantee 911 reliability akin to wireline services, as the connectivity of a VoIP call is only as good as the underlying broadband connection and power supply. Only concurrent regulation of all entities contributing to the provision of VoIP will ensure the ultimate result the Commission desires.**
- To the extent that the Commission proceeds to impose 911 requirements on VoIP, in defining the scope of such requirements, the Commission should not attempt to impose requirements on services using DIDs assigned outside of the North American Numbering Plan (“NANP”).
- Development of wireless 911 solution involved many years of consideration and participation by the Commission, the wireless industry and public safety officials. Widespread implementation of wireless E911 was no small feat (and indeed has not yet been completed after over a decade of effort) and there is no reason to believe the same will not be true for VoIP, especially Nomadic VoIP.
- The Commission should not impose 911 requirements on Nomadic VoIP that cannot be met by existing U.S. providers. In Primus’s experience, customer demand for Nomadic VoIP services is strong, and therefore, the imposition of traditional 911 requirements on such services would handcuff the industry in the United States. U.S. providers might not be able to provide Nomadic VoIP services, and instead U.S. consumers would simply turn to foreign carriers not subject to FCC jurisdiction to obtain this innovative, low-cost service.
- There is very little on the record to serve as basis for immediate implementation of traditional 911 requirements on VoIP services, particularly given the complex technical, practical and policy issues involved. The Commission should allow the industry reasonable time to develop technical solutions and alternatives to the VoIP 911 issue, and the FCC should spend the time necessary to fully work through these solutions and alternatives as part of Further Notice of Proposed Rulemaking.

What Primus CAN Do Within 120 Days.

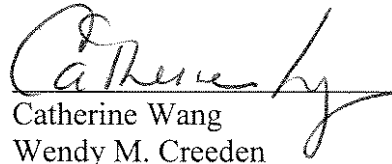
- Primus is unsure if it will be able to procure basic 911 services from the available alternatives within the proposed 120 day period, as these are new relationships and the solution is yet untested. Further, it is unlikely that Primus could develop nationwide infrastructure to provide traditional 911 services to its Nomadic VoIP customers in the

near future. However, Primus can respond to the Commission's 911 concerns within the proposed 120 day period as follows:

- Primus can continue to explore arrangements with third-party vendors that are currently developing a nationwide emergency services solution.
- Primus can explore relationships with LECs to provide in-territory emergency services in the cities with the highest concentration of Lingo customers.
- Primus can provide access to public safety lines through 10-digit dialing (via Primus's third-party contractor). This solution offers access, albeit qualified, to some emergency services while a better solution is being developed.
- Primus can alert customers via its website and through mailings that the emergency services available through the Lingo product are not the same as traditional 911 services
- Primus can specifically advise its customers to ensure that they retain access to traditional 911 services through landline telephones or wireless carriers. Primus can provide notification stickers for all Lingo equipment that remind customers of this difference. Primus can obtain a specific opt out from those consumers who are using the Nomadic VoIP in locations where 911 service is not available or needed.

If you have any questions regarding this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,


Catherine Wang
Wendy M. Creeden

Counsel for
Primus Telecommunications, Inc.

cc: Chairman Kevin J. Martin (FCC)
Commissioner Kathleen Q. Abernathy (FCC)
Commissioner Michael J. Copps (FCC)
Commissioner Jonathan S. Adelstein (FCC)
Thomas Navin (FCC)
Walter Stone (Primus)
Geoffrey Hicks (Primus)
Kathleen Lawrence (Primus)